



Planning Board

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TOWN CLERK, ACTON

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## DECISION

13-04

### Pegasus Farm – 429 Great Road

Sign Special Permit

May 7, 2013

GRANTED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Thomas Fleming (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Country Properties, LLC. of 429 Great Road Acton, MA 01720. The property is located at 429 Great Road Acton, MA 01720 and shown on the Acton Town Atlas map C5 as parcel 67 (hereinafter the Site).

This Decision is in response to an application for a sign special permit, received by the Acton Planning Department on February 14, 2013, pursuant to Section 7.13 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Sign Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on April 23, 2013. Board members Mr. Ryan Bettez (Chairman), Mr. Jeff Clymer, Ms. Kimberly Montella, Mr. Ray Yacouby, Mr. Roland Bourdon, Mr. Derrick Chin, and Michael Dube (Associate Member) were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

## 1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Items and documentation required by the Rules consisting of:
  - A properly executed Application for a Sign Special Permit, received in the Planning Department on 2/14/13;
  - Certified Abutters List;
  - Locus Map;
  - Sign Specifications sheet;
  - Sign Location plans;
  - Cover memo from the Applicant to the Board;
- 1.2 Interdepartmental communication received from:

- Acton Engineering Department, dated 03/11/13;
- Acton Finance Department, dated 03/12/13;
- Acton Municipal Properties Dir., dated 03/07/13.

Exhibit 1.1 is referred to herein as the Plan.

## **2 FINDINGS and CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 Parcel C5-67 is located in the Limited Business Zoning District.
- 2.2 The Applicant requests a special permit for one freestanding sign (hereinafter the Sign) at the Site that would not otherwise be allowed under the Bylaw:
  - a) With a display area, in excess of the by-right 12 square feet and a height in excess of the by-right 7 feet, prescribed by Bylaw Section 7.8.5.1. The display area of the proposed Sign is 40 square feet. The height of the proposed Sign is 10 feet.
  - b) In all other respects the proposed sign as requested would comply with by-right requirements of the Bylaw.
- 2.3 The Sign may be allowed on the Site by special permit in accordance with Sections 7.13.1.2(c) of the Bylaw.
- 2.4 The Plan does not address landscape design requirements of Bylaw Section 7.8.2.
- 2.5 The Plan does not show the distance from the sign to the sideline of the street.
- 2.6 The proposed Sign is internally illuminated. The Sign has red opaque face which features individual letters and symbols with cut out white translucent letter surfaces which are internally illuminated.
- 2.7 The Sign is much larger in scale and proportion than existing freestanding signs in the immediate surrounding area.
- 2.8 The Sign unduly competes for attention with other signs in the area.
- 2.9 The requested dimension of the Sign is not necessary for adequate identification of the business at this Site.
- 2.10 The Sign will be made of PVC and aluminum with white vinyl lettering, pursuant to Section 7.4.2.
- 2.11 The colors and materials of the Sign are restrained, and in harmony with the buildings.
- 2.12 The materials used for the Sign are appropriate and do not detract from the aesthetic qualities of the surroundings.
- 2.13 There are several graphic elements on the Sign. The Sign lists 12 products sold at the business location.
- 2.14 The Sign as approved herein is appropriate for the Site; is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw, specifically Section 7; will not be detrimental or injurious to the neighborhood where it is proposed; and comply in all respects to the applicable requirements of the Bylaw and the Rules.
- 2.15 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

### **3      BOARD ACTION**

Therefore, the Board voted unanimously to GRANT the requested special permit subject to and with the benefit of the following waivers, Plan modifications, conditions, and limitations.

#### **3.1      CONDITIONS**

- 3.1.1 Sign illumination shall comply with Bylaw Section 7.4.3.
- 3.1.2 The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Zoning Enforcement Officer in his administration of the sign permits under Section 7.6 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any sign permit issued by the Zoning Enforcement Officer hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.
- 3.1.3 Prior to erecting the Sign, the Applicant shall obtain a sign permit from the Zoning Enforcement Officer pursuant to Section 7.6 of the Bylaw.
- 3.1.4 Prior to issuance of a sign permit the Applicant shall add a note to the specification plan showing the distance from the sign to the sideline of the street. The Sign location shall comply with Bylaw Section 7.8.2.
- 3.1.5 The height of the Sign shall not exceed 8 ft.
- 3.1.6 The display area of the Sign shall not exceed 30 square feet.
- 3.1.7 The freestanding Sign at the Site shall be centered within a landscaped area measure at least 256 square feet.
- 3.1.8 All parts of the sign shall be setback from the sideline of Great Road a distance that is equal or greater than the height of the sign.
- 3.1.9 The Sign shall be erected in accordance with the Plan approved and amended herewith, and shall otherwise comply with all applicable requirements of the Bylaw.
- 3.1.10 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of a sign permit.

#### **3.2      LIMITATIONS**

This special permit shall be limited as follows:

- 3.2.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed Sign as shown on the Plan.
- 3.2.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.2.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue

any appropriate changes to the special permit and to require any appropriate modifications of the Plan.

- 3.2.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

#### **4 APPEALS**

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Acton Planning Board

  
Roland Bartl, AICP, Planning Director  
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

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Eva Szkaradek, Town Clerk

Date

#### Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Engineering Administrator	Municipal Properties Director
Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
MAGIC (DRI only)	Historic District Commission	

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